

**Administrative Justice Council Meeting**

Wednesday 7<sup>th</sup> July 2021, 13:30-16:00

Via Zoom

**Attendees:**

Sir Keith Lindblom (“the SPT”)	Senior President of Tribunals (Chair)
Rosemary Agnew	Scottish Public Services Ombudsman
Samantha Pullin	HMRC
Lucy Scott-Moncrieff	Scott-Moncrieff
Naomi Creutzfeldt	Westminster University
Robert Thomas	Manchester University
Brian Thompson	Liverpool University
Lindsey Poole	Advice Services Alliance
Rhian Davies-Rees	Welsh Tribunals
Katrin Shaw	Public Service Ombudsman for Wales
Luc Altmann	HMCTS
Paul Yates	Freshfields
Bill Dowse	Ministry of Justice
Libby Wright	HMCTS
Rebecca Hilsenrath	Parliamentary and Health Service Ombudsman
Donal Galligan	Ombudsman Association
Ray Burningham	Consultant
Paula Stevenson	Devolved Tribunals, Scottish Government
Sir Wyn Williams	Welsh President of Tribunals
Natalie Byrom	Legal Education Foundation
Martin Moore	Department of Justice, Northern Ireland
Warren Seddon	Information Commissioner’s Office
Laura Proctor	Northern Ireland Public Services Ombudsman
Ken Butler	Disability Rights UK
Amy Shaw	Civil Justice Council
Heidi Bancroft	AJC
Sally Hunt	AJC/JUSTICE

**Apologies:**

Andrea Coomber, JUSTICE; Kate Gregory-Smith, MoJ; Lord Stephen Woolman, President of Scottish Tribunals; Mr Justice Lane, President of the Upper Tribunal, Immigration and Asylum Chamber; Maurice Suskin, Essex University; Michaela McAleer, Northern Ireland Public Services Ombudsman; Caroline Sheppard, Traffic Penalty Tribunal.

**1. Welcome and Introductions**

The SPT welcomed attendees to the meeting. He announced that it was an honour for him to succeed Sir Ernest Ryder and he hoped he could do the AJC justice. He had taken up the post of SPT

in September of last year and prior to that he was the Court of Appeal Judge before becoming the Vice Senior President of Tribunals.

The SPT gave an update on the work of the AJC since the last meeting in February:

- Two new members had joined the Council – Rebecca Hilsenrath at the Parliamentary and Health Service Ombudsman and Ursula O’Hare at the Northern Ireland Law Centre.
- A few members had stepped down from the Council - Claire Blades from Citizens Advice, Karen Ashton from Law Centres Network and Jo Hickman from Public Law Project. The SPT thanked them for their contribution to the AJC.
- The AJC [Annual Report](#) would be published the following day.
- The report on [Access to Social Welfare Advice in a hospital setting: Integration of services](#) was published the previous month. The team was in the process of applying for funding for a bigger project later in the year.
- The joint JUSTICE/AJC Reforming Benefits Decision-making Report would be published the following evening.
- Two further events were taking place:
  - 1) A Workshop on Comparative Administrative Justice in the UK on Wednesday 14th July, hosted by Sarah Nason (Bangor University) and Huw Pritchard (Cardiff University); and
  - 2) A Social Care Roundtable hosted by Lindsey Poole on 20th July.
- Andrea Coomber, the Director for JUSTICE would be moving on from JUSTICE to become the CEO of Howard League for Penal Reform. The SPT thanked Andrea for her substantial contribution and for hosting the Secretariat at JUSTICE.

## **2) Windrush Working Group – Professor Robert Thomas**

Robert Thomas gave an update on the Windrush Working group which had been looking at the operation of the compensation scheme, set up to compensate people who had suffered harm by the Home Office (HO). The group had looked at the scheme’s evidence-gathering, communication, redress mechanisms and the scope for improving the scheme.

The group had approved a list of approximately 20 recommendations which they would be making in the report, to be drafted over the summer. It was hoped that its contents would have real impact in terms of helping claimants by improving the way the scheme was operated.

## **3) TLEF Evaluation of the impact of COVID on tribunal hearings – Dr Natalie Byrom**

Dr Natalie Byrom (NB) gave a presentation on the report by The Legal Education Foundation on the impact of COVID on tribunal hearings. The survey, on which the report was based, captured the experiences of over 1500 tribunal judicial office holders who were asked to reflect on the remote hearings they had taken part in between March and July 2020. The 35 recommendations presented in the report set out immediate, practical and longer-term steps to improve the experience of judicial office holders and to ensure that remote hearings were deployed in a manner that secured safe, effective and efficient access to justice. The report sought to shine a light on lessons that

should be learnt and put into practice as we moved into the recovery phase. The full report can be accessed [here](#).

The SPT drew attention to the continuing debate on usefulness of remote hearings in different jurisdictions, recognising the essential variety and difference between jurisdictions meaning that one size did not fit all. There followed a discussion on the report where topics including technological issues, training and platforms were considered together with concerns on how to identify vulnerable appellants over the telephone and the avoidance of vicarious trauma.

#### **4) Immigration and Asylum Evaluation and Access to Justice – Luc Altmann and Libby Wright, HMCTS**

Luc Altman (LA), Head of Insights, HMCTS, reported that his team had been commissioned to look at how to improve access to justice in all services. There were commitments made by HMCTS, MoJ, the judiciary, the Public Accounts Committee and NAO to improve access to justice (A2J) and this was part of a continued improvement of services after reform. They had developed an Access to Justice Barriers Plan and were looking to identify access to justice issues to mitigate risk.

Libby Wright, HMCTS' lead on tribunals, informed the Council that their immigration and asylum work, launched in early 2020, had prompted significant changes and that they continued to scrutinise what was, and wasn't, working. She provided the Council with an overview of the project which involved surveying legal representatives and interviewing judges, Home Office and HMCTS staff and the gathering of research from appellants and advice organisations.

The Council was further informed that HMCTS had built on Dr Natalie Byrom's work on defining access to justice. Evidence gaps still existed and they were working on existing data. They had acquired significant data on protected characteristics of users but continued work on understanding access variants between types of users.

#### **5) COVID recovery**

The Council had a discussion on COVID recovery across the administrative justice landscape with members providing updates on their sectors.

##### Tribunals

The SPT noted that recovery would be hugely challenging because it coincided with the continuation of reform and the digitisation of courts and tribunals across the UK. Recovery would not be the same as a return to the normality once known. The differences across the spectrum of courts and tribunals needed to be respected and honoured – remote hearings would be appropriate for some jurisdictions but not all.

Sir Wyn Williams, President of Welsh Tribunals, gave an update on the tribunals in Wales. He noted the great variety within the devolved tribunals and agreed that one size did not fit all.

He informed the Council that within the next two months, the Law Commission would report on proposals for tribunal reform. There were two aspects that they were considering – 1) the structure of the Welsh tribunal unit; and 2) a rule making body chaired by the Welsh President of Tribunals.

#### Ombudsman Schemes

Margaret Kelly, Northern Ireland Public Services Ombudsman, reported that in the first quarter of the previous year, there was a significant dip in the number of complaints. This had, however, increased back to normal levels by the end of the year. This year, the number of cases that had come through in the first quarter had outstripped the previous year.

Rosemary Agnew, Scottish Public Services Ombudsman, announced that recovery had been high on their agenda. The recovery of public services had impacted what came into their office, with a similar experience to that seen in Northern Ireland – higher numbers than this time last year. There was a predictability issue as it was difficult to anticipate the volume and topic of complaints; they expected a tsunami at some point.

#### Advice Sector

Lindsey Poole, Director for Advice Services Alliance, echoed what she had heard in the meeting. Very similar issues were affecting the advice sector:

- There had been a huge shift to online and remote services, mainly telephone, and much less face to face advice. This had brought some new clients but had also excluded others.
- Funding and sustainability issues: the previous injection of funding from the MoJ and the Lottery Fund was unlikely to be repeated this year.
- A skills shortage was beginning to emerge - working from home was not providing the same experience, and organisations were losing staff and finding recruiting new people problematic - they were now looking at a big shortage across the sector.
- The uplift on Universal Credit was being phased out (likely to result in financial management problems for many).
- The end of furlough was likely to bring with it employment and housing issues.

#### Pro Bono Lawyers

Paul Yates, Head of Pro Bono, Freshfields, added that they had experienced similar issues to the advice sector. They had also moved to operating via different forms and had been struck by the new cohort of people requiring assistance since switching to remote delivery. They had been vulnerable in different ways as they represented those unable to access face-to-face services. The hope was to keep hold of the best of both worlds.

#### **6) NIPSO's own investigation into PIP – Margaret Kelly, Northern Ireland Public Services Ombudsman and Laura Proctor**

Margaret Kelly (MK) explained that NIPSO had decided that their own initiative powers investigation would look at Personal Independence Payments (PIP) and its administration. The team had:

- Considered the principles of good administration by public bodies;

- Reviewed 100 randomly selected case files;
- Considered each case in its entirety;
- Studied 48 final stage complaint files.

The principles of good administration had been looked at step-by-step and included: getting it right; being customer focused; being open and accountable and seeking continuous improvement. They found that there was systemic maladministration and the department had failed to: scrutinise further evidence of individual claims; analyse why decisions were overturned; and that the ineffective complaints process had hindered the department's ability to improve their decision-making.

Thirty recommendations were made and can be found in the report [here](#).

There followed a discussion on how NIPSO would be following up on its recommendations and the implications of the implementation of the recommended changes for other jurisdictions, including cultural changes and insights into how claimants viewed the Department of Communities.

#### **7) DWP First Instance Decision-making Report – Pro Bono Economics Unit**

Lindsey Poole introduced Pro Bono Economics Unit who had been working with the Advice Sector Panel on first instance decision-making on disability benefits (PIP and ESA). The problem with DWP decision-making had been made clear by the volume of appeals and number of overturned decisions.

Dougie Peedle (DP) and three volunteer economists gave a presentation on their methodology and subsequent findings to date. The drafting of the full report would take place over the summer and would be shared with the Council before it would be published.

#### **8) Governance – Heidi Bancroft, Secretary to the AJC**

Heidi Bancroft thanked the Council members for accepting the invitation to sit on the Council for a second term. Any gaps in membership would be looked at over the summer by the Steering Group – suggestions were welcomed. There were also two vacancies on the Steering Group and she invited members to consider putting themselves forward. She would send an email on the process for Expressions of Interest. The Secretariat would organise meetings with individual Council members over the next 18 months to hear more about their work and how it complimented the aims of the AJC.

#### **9) AOB**

There was no other business.

The SPT thanked the Council for the discussions and closed the meeting.